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Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

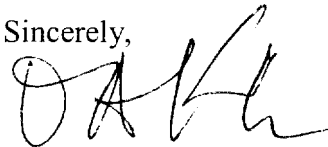
Re: **Written *Ex Parte* Statement of Intermedia Communications Inc. and Net2000
Communications Services, Inc. in CC Docket No. 96-98:**

**ILEC Failures to Provision EELs On a Reasonable and Timely Basis Must
Be Factored Into Any "Impair" Analysis Relating to the Elimination of the
Local Switching Unbundled Network Element**

Dear Ms. Salas:

Pursuant to Section 1.1206(b)(1) of the Commission's rules, enclosed please find
two copies of an *ex parte* filed today for inclusion in CC Docket 96-98.

Sincerely,



David A. Konuch

Enclosures

No. of Copies rec'd 41
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Ex Parte

Magalie R. Salas, Secretary
Federal Communications Commission
445 – 12th Street, SW
Washington, D.C. 20554

Re: **Written *Ex Parte* Statement of Intermedia Communications Inc. and Net2000 Communications Services, Inc. in CC Docket No. 96-98:**

ILEC Failures to Provision EELs On a Reasonable and Timely Basis Must Be Factored Into Any “Impair” Analysis Relating to the Elimination of the Local Switching Unbundled Network Element

Dear Ms. Salas:

Pursuant to § 1.1206(b)(1) of the Commission’s Rules, and by their undersigned counsel, Intermedia Communications Inc. (“Intermedia”) and Net2000 Communications Services, Inc. (“Net2000”) jointly submit this written *ex parte* presentation regarding the availability of the enhanced extended link (“EEL”), and its relation to the removal of the Local Switching Unbundled Network Element (“UNE”). In accordance with Section 1.1206(b)(1) of the Commission’s rules, two copies of this *ex parte* are being submitted to you under separate cover for inclusion in CC Docket No. 96-98.

Intermedia is a competitive local exchange carrier (“CLEC”), based in Tampa, Florida. A provider of both voice and data services, Intermedia is the largest independent CLEC in the United States. Net2000 is a relatively new entrant into local markets, and provides a full portfolio of local and long-distance voice and data services to customers throughout the Northeast. Both Intermedia and Net2000 have participated actively in CC Docket No. 96-98, and have been strong proponents of the EEL since the concept was developed. As discussed below,

DC01/CANI/123638.1

Magalie R. Salas, Secretary
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even though the Commission has mandated that the EEL be available as of February 17 of this year, EELs are still not generally available. In order to provide an incentive for ILECs to deploy EELs as required, and to ensure that they cannot benefit from unreasonably delaying EEL provisioning, the Commission should expressly consider the availability *vel non* of EELs in any analysis that may be used as a basis for eliminating other UNEs.

I. BACKGROUND

In its *UNE Remand Order*,¹ the Commission established the right of CLECs to obtain “enhanced extended links” (“EELs”), which are combinations of unbundled loop and/or transport network elements. The Commission finds its authority to mandate EELs in § 51.315(b) of the Commission’s rules, which precludes incumbent LECs from separating unbundled network elements that are currently combined. The Commission noted that incumbent LECs routinely provide the functional equivalent of combinations of unbundled loop and transport network elements through their special access offerings, and that a requesting carrier that ordered special access service from the ILEC could subsequently convert that circuit to its UNE equivalent – the EEL.² The portion of the *UNE Remand Order* that made EELs available to requesting carriers took effect on February 17, 2000.³

In the same *UNE Remand Order*, the Commission established rules governing the availability of the unbundled local circuit switching UNE, and UNE combinations employing that element. The Commission concluded that, in some limited circumstances, the local

¹ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696 (1999) (“*UNE Remand Order*,” so called because it responded to the Supreme Court’s remand of the Commission’s *First Report and Order* in CC Docket No. 96-98, see *AT&T v. Iowa Utils. Bd.*, 119 S.Ct. 721 (1999)).

² *UNE Remand Order*, 15 FCC Rcd at 3909. In order to provide ILECs with protection from substantial erosion of their special access service revenues, the Commission placed a usage restrictions on EELs, requiring that requesting carriers that obtain EELs must carry a “significant amount” of local traffic over them. *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Supplemental Order, FCC 99-370 (rel. Nov. 24, 1999).

³ Most provisions of the *UNE Remand Order* took effect 30 days after Federal Register publication of the Order. Publication occurred on January 18, 2000, and so the EEL provisions of the *UNE Remand Order* took effect on February 17, 2000.

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switching UNE would not meet the “impair” test mandated by the Communications Act, in which case ILECs would not be required to make it available. Among the four factors that the Commission identified in this “impair” analysis was “cost-based access to the enhanced extended link (EEL) throughout density zone 1.”⁴

Intermedia and Net2000 file this ex parte statement to request that the Commission clarify and further define the duty of ILECs to provide “access” to EELs, and to expressly incorporate this definition in the “impair” analysis it will conduct in determining whether ILECs do not need to make the local switching UNE available. As discussed below, both Intermedia and Net2000 have experienced significant delays in the provisioning of EELs, and this recent experience demonstrates the need for a more detailed statement of the role that EEL availability will take in the Commission’s “impair” analysis.

II. INTERMEDIA AND NET2000 HAVE BEEN DENIED

REASONABLE ACCESS TO EELs

Intermedia actively participated in negotiations with a number of ILECs, including BellSouth, in crafting a definition of “significant amount of local traffic” that could meet the needs of the industry. These negotiations ultimately resulted in a joint proposal signed by several CLECs and ILECs – including Intermedia and BellSouth – that was filed with the Commission on February 28, 2000. The Commission ultimately adopted the bulk of the recommendations that were made in this jointly filed letter.

Despite the joint involvement of Intermedia and BellSouth in crafting this compromise position, when it came time for Intermedia to request EELs from BellSouth, BellSouth refused to process orders for converting existing special access circuits to EELs. Instead, BellSouth required that Intermedia sign an amendment to the currently effective Intermedia/BellSouth interconnection agreement. While Intermedia expressed its willingness to do so, the amendment proposed by BellSouth contained terms that were inconsistent with the terms that both parties had negotiated, and proposed in their joint letter to the Commission. The terms that BellSouth insisted upon were highly burdensome to Intermedia, and completely unacceptable.

BellSouth ultimately agreed to draft an amendment consistent with the terms negotiated by the parties, and reflected in the joint letter to the Commission, and Intermedia promptly signed such an amendment. However, the delay caused by this unnecessary and unreasonable debate over amendment language delayed Intermedia’s ability to order EELs by 4 months.

⁴ *UNE Remand Order*, 15 FCC Rcd at 3823.

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Net2000 similarly has been frustrated in its ability to obtain timely EELs, in this case from Verizon. Specifically, Verizon has contested Net2000's right to convert to EELs special access circuits that Net2000 has had in place for some time. Verizon bases its objection on the grounds that Net2000 had previously obtained the special access circuits from Bell Atlantic as part of a "ratcheted" service, in which Bell Atlantic provisioned switched circuit traffic over the same facility used to provision Net2000's special access circuit.

Net2000 has recently filed a request for Informal Intervention with the Commission's Enforcement Division, in an attempt to obtain a prompt resolution of this matter. In the request, Net2000 explains that Bell Atlantic's previous agreement to provide "ratcheted" special and switched access services over the same facility has no bearing on Net2000's ability to convert the circuit to an EEL. Indeed, Net2000 demonstrates that the circuits are fully compliant with the use restrictions established by the Commission. Rather than repeat its arguments here, Net2000 appends to this *ex parte* filing a copy of its filed request for Informal Intervention.

III. RELIEF REQUESTED

As the experiences of Intermedia and Net2000 demonstrate, ILECs retain the ability and incentive to delay provisioning of EELs in order to disadvantage their competitors. Moreover, even if delays in EEL provisioning are caused purely by innocent delays in provisioning or legitimate disagreements over the Commission's rules, delay in EEL provisioning means that CLECs are denied the benefits of UNEs that are critical to their ability to provide competitive local service in a timely and cost-effective manner.

Because any delay in EEL provisioning disadvantages CLECs – and because recent experience has shown that EELs are not readily available, even six months after the Commission has ordered ILECs to provide them, Intermedia and Net2000 believe it necessary for the Commission to make explicit that EEL availability will be included in any "impair" analysis that may result in the elimination of local circuit switching or any other UNE. Specifically, the Commission should find that an ILEC cannot meet the "impair" test for retiring local switching or other UNEs unless it demonstrates that EELs are readily available as an alternative means of providing competitive local service. Intermedia and Net2000 urge the Commission to adopt the following language:

An ILEC cannot demonstrate that requesting carriers will not be impaired in their ability to provide competitive local service without access to local switching or other UNEs if EELs are not available in a timely and efficient manner within the same geographic area. EELs will not be considered "available" if there are pending requests for converting special access circuits

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to EELs that remain pending more than 15 calendar days after the requested conversion date.

Intermedia and Net2000 believe that such a standard will provide adequate incentive for ILECs to provision EELs responsibly, and will ensure competitive carriers with an effective means of providing competitive local service, even if other UNEs are removed.

IV. CONCLUSION

For the reasons discussed above, Intermedia and Net2000 request that the Commission clarify the application of its "impair" analysis to include express terms for EEL conversion.

Pursuant to 1.1206(b)(1), an original and one copy of this written *ex parte* notification is submitted for inclusion in the public record of the above-referenced proceeding. Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,



Jonathan E. Canis
Brad E. Mutschelknaus
David A. Konuch
Counsel for Intermedia Communications
Inc. and
Net2000 Communications Services,
Inc.

cc: Dorothy T. Attwood
Kathy Farroba
Christopher Libertelli
Jon Reel
International Transcription Service

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August 1, 2000

VIA HAND DELIVERY

Frank Lamancusa, Deputy Chief
Market Disputes Resolution Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: Request by Net2000 Communications Services, Inc. for
Informal Intervention by the Market Disputes Resolution
Division Regarding the Refusal of Bell Atlantic to Convert
Tariffed Special Access Circuits to Enhanced Extended Links
Subject to Unbundled Network Element Pricing**

Dear Mr. Lamancusa:

Net2000 Communications Services, Inc. ("Net2000"), by its undersigned counsel, hereby requests informal mediation and, if necessary, acceptance for Accelerated Docket resolution of a dispute with Bell Atlantic regarding Bell Atlantic's refusal to convert tariffed special access circuits currently leased by Net2000 to enhanced extended links ("EELs"), which are unbundled loop-transport combinations subject to unbundled network element ("UNE") pricing.

Net2000 is a competitive local exchange carrier ("CLEC") offering a full portfolio of both local and long-distance voice and data services to consumers. Net2000 reaches its customers by purchasing and deploying its own Class 5 local voice switches and then leasing retail "special access" circuits from Bell Atlantic to connect Net2000's local voice switch to its customers. Net2000 does not presently collocate its network equipment in Bell Atlantic's central offices.

Frank Lamancusa, Esq.

August 1, 2000

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The particular issue in dispute here is whether certain tariffed special access circuits currently leased by Net2000 from Bell Atlantic qualify for immediate conversion to EELs under the guidelines set forth for such conversions by the Commission in its June 2, 2000 *Supplemental Order Clarification*.¹ In the FCC's *Supplemental Order Clarification*, the Commission set forth three circumstances or options in which a carrier would be deemed to be providing a "significant amount of local exchange service" over special access circuits and, thus, would have the right to convert those circuits from special access to UNE pricing as EELs. The FCC states that a carrier may qualify for converting a special access circuit to an EEL by self-certifying to one of the three local usage thresholds. The third option outlined by the FCC states that a carrier may fulfill the necessary requirements for qualifying for conversion from special access to an EEL by self-certifying to the following:

1. At least 50 percent of the activated channels on a circuit are used to provide originating and terminating local dialtone service;
2. At least 50 percent of the traffic on those local dialtone channels is local voice traffic;
3. The entire loop facility has at least 33 percent local voice traffic.²

The Commission also noted that where a loop-transport combination includes multiplexing, each of the individual loop circuits must meet the local usage threshold criteria, and that loop-transport combinations cannot be connected to the incumbent carrier's tariffed services.³ Additionally, under the Commission's third option, collocation is not required.⁴

Net2000, like many other CLECs, has been working to incorporate the benefits of EEL into its network architecture since before the *UNE Remand Order* was released in November of 1999. In October 1999, Net2000 personnel originally met with Bell Atlantic personnel at Comptel's Annual Business Conference and Expo in Phoenix, Arizona to discuss EEL. At that time, Bell Atlantic was unwilling to provide any information with regard to the

¹ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Supplemental Order Clarification, CC Docket No. 96-98, ¶ 22 (rel. June 2, 2000) ("*Supplemental Order Clarification*"); see also *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, FCC 99-238 (rel. Nov. 5, 1999) ("*UNE Remand Order*"), as modified by *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Supplemental Order, FCC 99-370 (rel. Nov. 24, 1999) ("*UNE Remand Supplemental Order*").

² Notably, Net2000's special access circuits meet the local usage threshold for even this, the most restrictive of the FCC's three options.

³ *Supplemental Order Clarification*, ¶ 22.

⁴ *Id.*

Frank Lamancusa, Esq.

August 1, 2000

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availability of EEL. Bell Atlantic waited until the effective date of the *UNE Remand Order*, February 17, 2000, before it actually notified Net2000 and the competitive industry of its onerous guidelines for converting special access services to EELs and did so by simply posting its requirements for the conversion process on its web site. Based on these guidelines, Net2000 assembled the data required by Bell Atlantic for each special access circuit requested to be converted and, on March 23, 2000, Net2000 submitted a letter to Bell Atlantic along with the requested data in a spreadsheet format via an electronic file requesting that certain special access circuits be converted to EEL. A copy of the March 23, 2000 letter is attached hereto as *Exhibit A*. Bell Atlantic refused to convert Net2000's special access circuits to EELs. At the time, Bell Atlantic stated that the reason for the denial was that Net2000 did not collocate its network equipment in Bell Atlantic's central offices. As noted above, under the Commission's rules, collocation is not necessarily required in order to convert circuits to EEL. Thus, Bell Atlantic's initial reason for denying Net2000's conversion requests is baseless.

Subsequently, on May 9, 2000, Net2000 submitted another letter to Bell Atlantic requesting that Net2000's special access circuits be converted to EEL retroactively to the effective date of the *UNE Remand Order* and certifying that those circuits are used to provide the requisite percentage of local exchange service to the particular customers served by those facilities. A copy of the May 9, 2000 letter is attached hereto as *Exhibit B*. Net2000 believes that there is no reasonable or lawful basis for Bell Atlantic to deny or delay the conversion of its special access circuits to UNE pricing. However, Bell Atlantic has continued to refuse to act on Net2000's request. Recently, Bell Atlantic has stated that Net2000's request will not be granted because the special access traffic at issue is multiplexed and aggregated onto a DS-3 transport facility that also carries additional traffic between the Bell Atlantic end office and Net2000's switching facility.⁵

As illustrated in Graph #1, attached hereto as *Exhibit D*, the DS-1 circuit from Net2000's customer to Bell Atlantic's central office facility constitutes the local loop portion of the EEL. The second element of the EEL, the multiplexing, is accomplished by a 3:1 multiplexer at Bell Atlantic's central office, which converts the DS-1 circuit to a DS-3 circuit. The third and final element of the EEL is the inter-office transport component, which connects Bell Atlantic's central office facility to Net2000's facility via a DS-3 circuit. In addition to DS-1 loops, a portion of this DS-3 circuit may also be used to transport switched access traffic to and from Net2000 customers not served via dedicated facilities, 911 access to emergency calling

⁵

For example, in a May 8, 2000 e-mail from Net2000's Bell Atlantic account representative, Deborah Kugelman, to Matt Swartz at Net2000, Bell Atlantic continues to take the position that all circuits on a CLECs' DS-3 transport link must individually be eligible for conversion to EEL or else the entire transmission path is contaminated and no circuits carried over the DS-3 can be converted to EELs. A copy of the May 8, 2000 e-mail is attached hereto as *Exhibit C*.

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traffic, 711 access to telecommunications relay services traffic for hearing-impaired customers, operator services traffic, and/or SS7 signaling traffic.

Through bandwidth optimization, Net2000 continues to engineer, design and deploy an efficient network and reduce network costs in order provide cost-effective connections to existing and new customers. The aggregation of EEL-eligible special access circuits onto a high capacity DS-3 transport facility that also carries ancillary services in no way bars the eligibility of the special access circuits for conversion to an EEL at UNE pricing under the FCC's *Supplemental Order Clarification*. This is not a case of proscribed "co-mingling". Net2000 has not requested to co-mingle DS-1 loops that meet the standards set forth in option three with those that do not. Each DS-1 loop combined on a DS-3 circuit meets the EEL eligibility criteria. Rather, Net2000 is simply using the excess capacity on its DS-3 circuits to optimize the capacity and performance of its network and also to serve the critical needs of its customers.

Bell Atlantic points to the aggregation of various types of traffic over the same high capacity transport facility as its reason for refusing Net2000's request for conversion of special access circuits to EELs. For example, according to Bell Atlantic's interpretation and application of the Commission's rules, if only one DS-1 circuit on a DS-3 circuit is used to carry 911 access to emergency calling, the *entire* DS-3 circuit is ineligible for EEL rates. Bell Atlantic's argument is neither lawful nor practical. The Commission has pronounced no bar against conversion of special access circuits that are carried over high capacity transport with other types of circuits, such as 911 access to emergency calling. Indeed, the DS-3 circuit itself is often a "virtual" circuit provisioned over OC-48 or higher transport which is divided up for various users and traffic types. It is cost-prohibitive to require a local carrier to deploy what amounts to an additional transport network in order to separate dedicated end user traffic from ancillary traffic. Nevertheless, the practical effect of Bell Atlantic's position would require the deployment of exactly this form of cost-prohibitive and inefficient network design and prevent CLECs from using the excess capacity on DS-3 or high capacity circuit for additional functionality.

Notably, Net2000 does not claim that the *entire* DS-3 transport facility should be converted to UNE pricing. Rather, it is Net2000's position that only the special access portion of the DS-3 transport facility constitutes the inter-office transport element of the EEL and, therefore, should be subject to conversion to UNE pricing. Net2000 will continue to pay applicable retail rates for those circuits that are not converted to EEL. Using a pricing and billing methodology known as "ratcheting," Bell Atlantic can charge different rates for dissimilar types of traffic sent over the same DS-3 circuit. Graph #2, attached hereto as *Exhibit E*, illustrates how the DS-1 circuit becomes part of the DS-3 circuit that, in turn, may become part of a larger OC-48 (or higher) circuit. Net2000 believes that, regardless of the multiplexing involved, the special access traffic that Net2000 has requested to be converted can be

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distinguished, or from a billing perspective "ratcheted," from other traffic carried over the DS-3 and OC-48 circuits.

Thus, Net2000 properly has certified that the special access circuits it has requested be converted to EELs are used to provide a significant amount of local exchange traffic to customers. Pursuant to the Commission's *UNE Remand Order*, *UNE Remand Supplemental Order* and *Supplemental Order Clarification*, Bell Atlantic should immediately convert the designated Net2000 special access circuits to EELs, subject to UNE pricing, as requested by Net2000. Because Bell Atlantic has refused Net2000's request, and despite Bell Atlantic's capability to separate special access traffic from switched access traffic over its DS-3 circuit for the purpose of segregated pricing, Net2000 respectfully requests assistance from the Commission in mediating this dispute with Bell Atlantic. If such negotiations fail to resolve this dispute, Net2000 requests that the Commission accept this dispute for Accelerated Docket resolution.

Based on the facts above and as set forth below, this dispute clearly meets the Commission's criteria for acceptance into the Accelerated Docket. Among the factors to be considered in making a determination of whether a dispute is appropriate for Accelerated Docket resolution are: (1) whether resolution of the dispute appears likely to advance competition; (2) whether the dispute is one that can be reasonably resolved within the framework established for the Accelerated Docket; (3) whether the complaint states a claim for violation of the Act, or Commission rule or order that falls within the Commission's jurisdiction; and (4) whether an accelerated proceeding would place an unreasonable burden on one party because of a substantial resource disparity between the parties.⁶

Accelerated Docket resolution of this matter will enhance competition.

Net2000 is a CLEC that competes directly with Bell Atlantic, an incumbent LEC, to offer telecommunications services to the public. The Telecommunications Act of 1996 ("Telecommunications Act") specifically requires incumbent LECs to unbundle network elements and provide them to competing CLECs at wholesale prices in order to foster competition.⁷ The Commission has stated that "the ability of requesting carriers to use unbundled network elements, *including various combinations of unbundled network elements*, is integral to achieving Congress' objective of promoting rapid competition to all consumers in the local telecommunications market."⁸ Bell Atlantic's unlawful refusal to comply with Net2000's requests for conversions of special access to loop-transport combinations at UNE pricing keeps

⁶ *Amendment of Rules Governing Procedures to Be Followed When Formal Complaints are Filed Against Common Carriers*, Second Report and Order, 13 FCC Rcd. 17018, ¶¶ 18-21 (1998); 47 C.F.R. § 1.730(e).

⁷ 47 U.S.C. §§ 251(c) and 252(d).

⁸ *UNE Remand Order*, ¶ 5 (emphasis added).

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Net2000's costs artificially high and thereby directly impacts Net2000's ability to effectively compete with Bell Atlantic and negatively impacts the development of competition in the local market.

Notably, the Commission has stated that "once a requesting carrier certifies that it is providing a significant amount of local service, the process by which special access circuits are converted to unbundled loop-transport combinations should be *simple and accomplished without delay*."⁹ To date, Net2000 is not aware of *any* CLEC across the country that has been able to convert existing special access circuits to EELs pursuant to the FCC's rules. Months after the Commission mandated that incumbents comply with requests for conversions of special access circuits to EELs, Bell Atlantic continues to stonewall Net2000's attempts to convert eligible special access circuits to EELs.¹⁰

This dispute reasonably can be resolved within the parameters of the Accelerated Docket. The instant dispute is certainly the type that easily can be resolved within the expedited procedural schedule and adjudicatory framework set forth in the Commission's rules for the Accelerated Docket. At this point, the main issue in dispute is the qualification of the special access circuits for conversion to EELs at UNE pricing, as requested by Net2000. The question of whether a special access circuit qualifies for conversion to EEL is one of technical interpretation and application of the Commission's recent *Supplemental Order Clarification* and should not be particularly complex.

The Commission has jurisdiction to resolve this dispute. Net2000 maintains that Bell Atlantic has delayed and, ultimately refused, Net2000's request for conversion to EELs, and that such action violates the Commission's rules and policies implementing Section 251 of the Telecommunications Act. Furthermore, in refusing Net2000's request, Bell Atlantic has failed to recognize that the special access circuits identified by Net2000's for conversion to EELs fall within one of the Commission's three local use options outlined in its *Supplemental Order Clarification* and, therefore, are eligible for such conversion to UNE pricing. Inasmuch as the Commission has jurisdiction to adopt rules and policies pertaining to UNE pricing, the Commission has the jurisdiction to interpret, apply and enforce these rules and policies. Indeed, the Commission has stated that it will take "*swift enforcement action*" if it becomes aware of any

⁹ *Supplemental Order Clarification*, ¶ 30 (emphasis added).

¹⁰ Indeed, Bell Atlantic has imposed excessive termination penalties associated with DS-3 special access services. Pursuant to Bell Atlantic's FCC Tariff No. 1, the minimum service period for a DS-3 is one year. Early termination carries a 100% or "take or pay" penalty. Under these terms, Net2000 could not realistically convert its special access services to EELs before having its DS-3 circuits in place for a year since Net2000 will be charged both EEL rates and special access termination charges following the conversion.

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Page Seven

incumbent LEC that is unreasonably delaying the ability of a requesting carrier to make such conversions.¹¹

The Accelerated Docket will not be unfair to one party because of an overwhelming disparity in the parties' resources. Neither Net2000 nor Bell Atlantic will be unreasonably burdened by the requirements of the Accelerated Docket. Net2000 will be able to devote the resources necessary to meet the rigorous procedural schedule, discovery, hearing and substantive filing requirements associated with this form of dispute resolution if this dispute is accepted for accelerated resolution. Having at its disposal monetary and personnel resources that dwarf those of Net2000, Bell Atlantic should not be unfairly burdened by acceptance of this complaint into the Accelerated Docket.

In sum, this dispute between Net2000 and Bell Atlantic meets the criteria for acceptance into the Accelerated Docket. Net2000 believes that the Commission mediation and, if necessary, the Accelerated Docket, offer the best possibility of resolving this dispute expeditiously and in accordance with the Commission's rules and policies governing the conversion of special access circuits to EELs. Should you have any questions, please do not hesitate to contact me at (202) 955-9765.

Respectfully submitted,

Brad E. Mutschelknaus
Brad E. Mutschelknaus

cc: Lee Weiner (Net2000)
Chris McKee (Net2000)
John Heitmann (Kelley Drye)

¹¹ *UNE Remand Supplemental Order*, n.9 (emphasis added).

March 23, 2000

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Bell Atlantic
Attn: Deborah Kugelmann, Account Manager
13100 Columbia Pike, POD B-2-2
Silver Spring, MD 20904

Re: Notice of Self-Certification

Dear Bell Atlantic,

Pursuant to the Federal Communications Commission's ("FCC") *UNE Remand Order*, as modified by the *UNE Remand Supplemental Order*,¹ this is to notify Bell Atlantic that Net2000 Communications Services, Inc. ("Net2000") has self-certified that the special access circuits that Net2000 has requested be converted to combinations of loops and transport (referred to as the "enhanced extended links" or "EELs") in this conversion order are used to provide a significant amount of local exchange service to the particular customers served by those facilities.

In making its self-certification, Net2000 has been and continues to be fully aware of the FCC's rules on uses of combinations of unbundled loop and transport network elements and is in and will continue to be in full compliance with the FCC requirements in this regard. Thus, there is no reasonable basis for Bell Atlantic to delay the conversions of unbundled loops and transport network elements to unbundled network element pricing that have been or will be requested by Net2000. If you believe there will be any delay in promptly processing the conversion order, please immediately contact Anthony Hansel at (703) 654-2028.

Respectfully,



Anthony Hansel
Counsel
Net2000 Communications Services, Inc.

Enclosure

cc: Clyde Heintzelman
Bruce Bednarski

¹ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, FCC 99-238 (rel. Nov. 5, 1999) ("*UNE Remand Order*"), as modified by *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Supplemental Order, FCC 99-370 (rel. Nov. 24, 1999) ("*UNE Remand Supplemental Order*").

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13100 Columbia Pike, POD B-2-2
Silver Spring, MD 20904

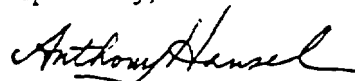
Re: Notice of Self-Certification

Dear Bell Atlantic,

Pursuant to the Federal Communications Commission's ("FCC") *UNE Remand Order*, as modified by the *UNE Remand Supplemental Order*,¹ this is to notify Bell Atlantic that Net2000 Communications Services, Inc. ("Net2000") has self-certified that Net2000's special access circuits are used to provide a significant amount of local exchange service to the particular customers served by those facilities. Accordingly, all Net2000 special access circuits should be converted to combinations of loops and transport (referred to as the "enhanced extended links" or "EELs") as of the effective date of the FCC's *UNE Remand Order*, February 17, 2000. Net2000 hereby requests retroactive pricing and billing credits for the amount of charges that exceed the EEL rates to the February 17, 2000 date for all Net2000 special access circuits eligible to be converted to EEL.

In making its self-certification, Net2000 has been and continues to be fully aware of the FCC's rules on uses of combinations of unbundled loop and transport network elements and is in and will continue to be in full compliance with the FCC requirements in this regard. Thus, there is no reasonable basis for Bell Atlantic to delay the conversions of unbundled loops and transport network elements to unbundled network element pricing that have been or will be requested by Net2000. If you believe there will be any delay in promptly processing the conversion order, please immediately contact Anthony Hansel at (703) 654-2028.

Respectfully,



Anthony Hansel
Counsel
Net2000 Communications Services, Inc.

cc: Clyde Heintzelman

¹ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, FCC 99-238 (rel. Nov. 5, 1999) ("*UNE Remand Order*"), as modified by *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Supplemental Order, FCC 99-370 (rel. Nov. 24, 1999) ("*UNE Remand Supplemental Order*").

----- Forwarded by Matthew Swartz/Vienna/Net2000 on 05/08/2000
11:07 AM -----

deborah.a.kugelman@bellatlantic.com on 05/08/2000 10:52:02 AM

To: Matthew Swartz/Vienna/Net2000@Net2000
cc: Michelle Moor/Vienna/Net2000@Net2000, Anthony
Hansel/Tyson/Net2000@Net2000, Chris Green/Vienna/Net2000@Net2000

Subject: Re: EEL Call

The standard OC48 entrance is not an issue...what would be an issue is if the entrance were an Intellilight OC48....a simple rule...for jurisdictions other than NY, you cannot mix FCC tariffed services with EEL (or UNE for that matter). So, using DC as an example, as long as all of the T1's on a DS3 are converted to EEL, the DS3 then has to convert to EEL. The existing entrance there is not an issue. Have we selected a time this afternoon for a call?? My original 3:00 call today is now changed to 1:30.

mswartz@net2000.com on 05/08/2000 10:34:37 AM

Graphic #1

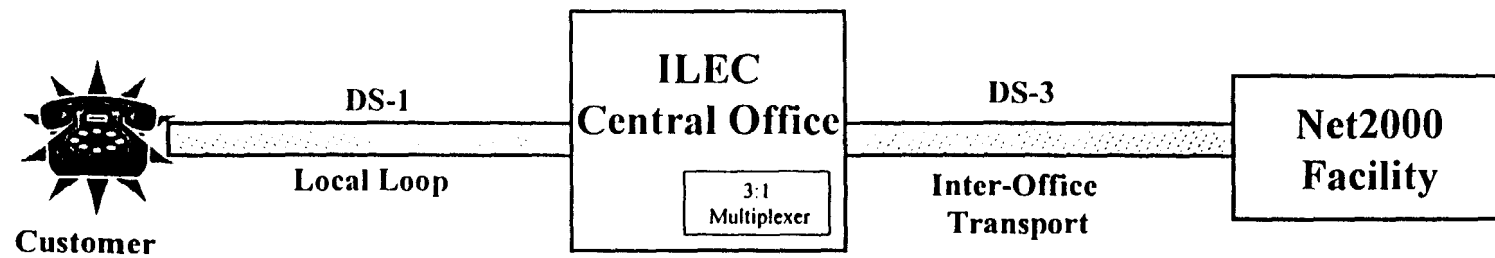
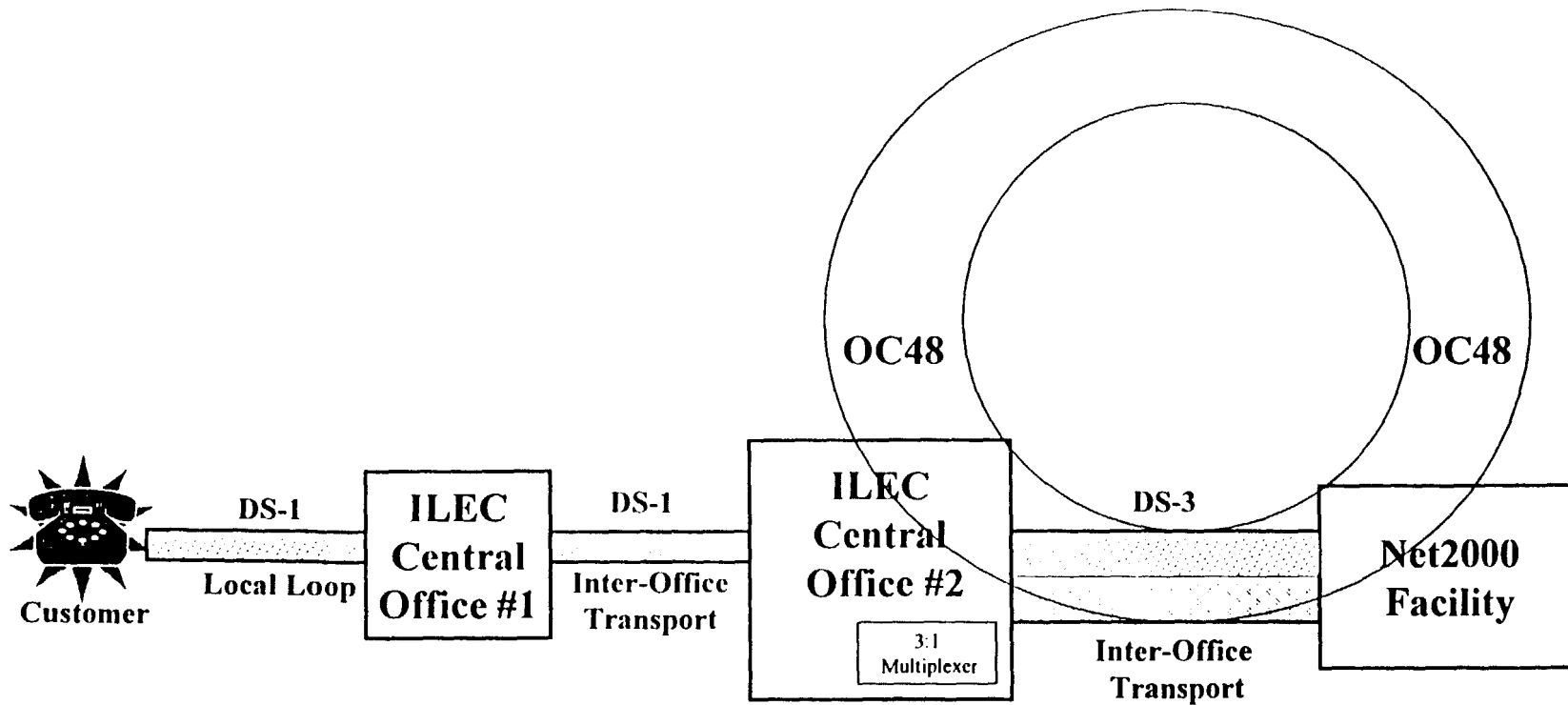


Exhibit D

Graphic #2



Special Access



Switched Access, 911, 711 and SS7